



राजपत्र, हिमाचल प्रदेश (असाधारण)

हिमाचल प्रदेश राज्यशासन द्वारा प्रकाशित

शिमला, शुक्रवार, १६ सितम्बर, १९६९/२८ भाद्रपद, १८९१

GOVERNMENT OF HIMACHAL PRADESH

VIDHAN SABHA SECRETARIAT

NOTIFICATION

Simla-4, the 12th September, 1969

No. 1-29/69-VS.—In pursuance of Rule 135 of the Rules of Procedure and Conduct of Business of the Himachal Pradesh Legislative Assembly, 1964, the following Bills as introduced in the Legislative Assembly on the 12th September, 1969 are hereby published in the Himachal Pradesh Government Gazette.

1. The Provincial Small Cause Courts (Himachal Pradesh Amendment) Bill, 1969 (Bill No. 21 of 1969);
2. The Code of Criminal Procedure (Himachal Pradesh Amendment) Bill, 1969 (Bill No. 22 of 1969);
3. The Himachal Pradesh Repealing Bill, 1969 (Bill No. 23 of 1969);
4. The Himachal Pradesh Requisitioning and Acquisition of Immovable Property Bill, 1969 (Bill No. 24 of 1969);

5. The Himachal Pradesh Backward Classes (Grant of Loans) Bill, 1969 (Bill No. 25 of 1969);
6. The Himachal Pradesh (Extension of Laws) Bill, 1969 (Bill No. 26 of 1969);
7. The Himachal Pradesh (Transferred Territory) Tenants (Protection of Rights) (Amendment) Bill, 1969 (Bill No. 27 of 1969);
8. The Himachal Pradesh Copying Fees Bill, 1969 (Bill No. 28 of 1969).

SURENDRANATH,
Under Secretary.

THE PROVINCIAL SMALL CAUSE COURTS (HIMACHAL PRADESH AMENDMENT) BILL, 1969

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A

BILL

to amend the Provincial Small Cause Courts Act, 1887 (Central Act 9 of 1887) in its application to the Union territory of Himachal Pradesh.

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Twentieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Provincial Small Cause Courts (Himachal Pradesh Amendment) Act, 1969.

Short title and extent.

(2) It shall extend to the whole of Himachal Pradesh.

2. In section 15 of the Provincial Small Cause Courts Act, 1887 (Central Act No. 9 of 1887) in its application to the Union territory of Himachal Pradesh:—

Amendment of section 15 of Central Act (9 of 1887).

(1) In sub-section (2), for the words “five hundred”, the words “two thousand” shall be substituted; and

(2) sub-section (3) shall be omitted.

3. The Provincial Small Cause Courts (Punjab Amendment) Act, 1966 as in force in the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966 is hereby repealed:

Repeal and savings.

Provided that anything done or any action taken under the said Act shall be deemed to have been done or taken under this Act.

STATEMENT OF PROVISIONS OF THE PRINCIPAL ACT
AFFECTED BY THIS AMENDMENT BILL

Section	Existing provision in old Himachal Pradesh	Provision as it will stand after the enactment of the Bill
1	2	3
Sub-section (2) of section 15.	Subject to the exceptions specified in that schedule and to the provisions of any enactment for the time being in force, all suits of a civil nature of which the value does not exceed <i>five hundred</i> rupees shall be cognizable by a Court of Small Causes.	Subject to the exceptions specified in that schedule and to the provisions of any enactment for the time being in force, all suits of a civil nature of which the value does not exceed <i>two thousand</i> rupees shall be cognizable by a Court of Small Causes.
Sub-section (3) of section 15.	Subject as aforesaid, the State Government may, by order in writing, direct that all suits of a civil nature of which the value does not exceed one thousand rupees shall be cognizable by a Court of Small Causes mentioned in the order.	X X X

STATEMENT OF OBJECTS AND REASONS

At present, the Provincial Small Cause Courts Act, 1887 (Central Act No. 9 of 1887) which consolidates and amends the law relating to Courts of Small Causes established beyond the Presidency-towns, is in force with different amendments and provisions of law in the two different areas of Himachal Pradesh, viz., the areas transferred to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966 and the areas comprised in Himachal Pradesh before the 1st November, 1966. In the former, the amendments as affected in the said Act by the Punjab Act No. 3 of 1966, are in force, while in the latter, no such amendments are in force. With a view to bringing about uniformity in the matter of such law, it has been considered necessary to repeal the amending Act aforesaid and to enact a unified amending law for the whole of Himachal Pradesh. This Bill seeks to achieve the aforesaid object.

SIMLA:

The 12th September, 1969.

KARAM SINGH,

Finance Minister.

FINANCIAL MEMORANDUM

Nil

MEMORANDUM ON DELEGATED LEGISLATION

Nil

Bill No. 22 of 1969

**THE CODE OF CRIMINAL PROCEDURE (HIMACHAL
PRADESH AMENDMENT) BILL, 1969**

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A

BILL

to amend the Code of Criminal Procedure, 1898, in its application to Himachal Pradesh for certain purposes.

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Twentieth Year of the Republic of India as follows:—

Short title
and extent.

1. (1) This Act may be called the Code of Criminal Procedure (Himachal Pradesh Amendment) Act, 1969.

(2) It extends to the whole of Himachal Pradesh.

Insertion of
section 197B
in Act 5 of
1898.

2. After section 197-A of the Code of Criminal Procedure, 1898 (hereinafter referred to as "the Code") the following new section shall be inserted, namely,—

"197B. *Prosecution of Commissioner appointed by Court.*—When any person, who is a Commissioner appointed by a court under the provisions of the Code of Civil Procedure, 1908, is accused of any offence alleged to have been committed by him while acting or purporting to act in the discharge of his functions as Commissioner, no court shall take cognizance of such offence except with the previous sanction of the court which appointed him as Commissioner."

5 of 1908

Amendment
of section
401 of Act 5
of 1898.

3. In sub-section (4-A) of section 401 of the Code between the words "Criminal Court" and "under", the words "or other authority" shall be inserted.

Repeal and
saving.

4. The Code of Criminal Procedure (East Punjab Amendment) Act, 1949 as in force in the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966 is hereby repealed:

28 of 1949

31 of 1966

Provided that anything done or any action taken under the said Act shall be deemed to have been done or taken under this Act.

STATEMENT OF PROVISIONS OF THE PRINCIPAL ACT
AFFECTED BY THE AMENDMENT BILL

Section	Existing provisions in old Himachal Pradesh	Provision as it will stand after the enactment of the Bill
1	2	3
Section 197B	—	When any person, who is a Commissioner appointed by a court under the provisions of the Code of Civil Procedure, 1908, is accused of any offence alleged to have been committed by him while acting or purporting to act in the discharge of his functions as Commissioner, no court shall take cognizance of such offence except with the previous sanction of the court which appointed him as Commissioner.
Sub-section (4-A) of section 401.	(1) When any person has been sentenced to punishment for an offence, the appropriate Government may at any time, without conditions or upon any conditions which the person sentenced accepts, suspend the execution of his sentence or remit the whole or any part of the punishment to which he has been sentenced.	(1) When any person has been sentenced to punishment for an offence, the appropriate Government may at any time, without conditions or upon any conditions which the person sentenced accepts, suspend the execution of his sentence or remit the whole or any part of the punishment to which he has been sentenced.
	(2) Whenever an application is made to the appropriate Government for the suspension or remission of a sentence, the appropriate Government, may require the presiding Judge of the	(2) Whenever an application is made to the appropriate Government for the suspension or remission of a sentence, the appropriate Government, may require the presiding Judge of the

Court before or by which the conviction was had or confirmed to state his opinion as to whether the application should be granted or refused, together with his reasons for such opinion and also to forward with the statement of such opinion a certified copy of the record of the trial or of such record thereof as exists.

(3) If any condition on which a sentence has been suspended or remitted is, in the opinion of the appropriate Government, not fulfilled, the appropriate Government may cancel the suspension or remission, and thereupon the person in whose favour the sentence has been suspended or remitted, may, if at large, be arrested by any police officer without warrant and remanded to undergo the unexpired portion of the sentence.

(4) The condition on which a sentence is suspended or remitted under this section, may be one to be fulfilled by the person in whose favour the sentence is suspended or remitted, or one independent of his will.

(4A) The provisions of the above sub-section shall also apply to any order

Court before or by which the conviction was had or confirmed to state his opinion as to whether the application should be granted or refused, together with his reasons for such opinion and also to forward with the statement of such opinion a certified copy of the record of the trial or of such record thereof as exists.

(3) If any condition on which a sentence has been suspended or remitted is, in the opinion of the appropriate Government, not fulfilled, the appropriate Government may cancel the suspension or remission, and thereupon the person in whose favour the sentence has been suspended or remitted, may, if at large, be arrested by any police officer without warrant and remanded to undergo the unexpired portion of the sentence.

(4) The condition on which a sentence is suspended or remitted under this section, may be one to be fulfilled by the person in whose favour the sentence is suspended or remitted, or one independent of his will.

(4A) The provisions of the above sub-section shall also apply to any order

passed by a Criminal Court under any section of this Code or of any other law, which restricts the liberty of any person or imposes any liability upon him or his property.

(5) } repealed by

(5A) } A.L.O., 1950.

(6) The appropriate Government may, by general rules or special orders, give directions as to the suspension of sentences and the conditions on which petitions should be presented and dealt with:

Provided that in the case of any sentence (other than a sentence of fine) passed on a male person above the age of eighteen years, no such petition by the person sentenced or by any other person on his behalf shall be entertained, unless the person sentenced is in jail, and—

(a) where such petition is made by the person sentenced, it is presented through the officer-in-charge of the jail; or

(b) where such petition is made by any other person, it contains a declaration that the person sentenced is in jail.

passed by a Criminal Court *or other authority* under any section of this Code or of any other law, which restricts the liberty of any person or imposes any liability upon him or his property.

(5) } repealed by

(5A) } A.L.O., 1950.

(6) The appropriate Government may, by general rules or special orders, give directions as to the suspension of sentences and the conditions on which petitions should be presented and dealt with:

Provided that in the case of any sentence (other than a sentence of fine) passed on a male person above the age of eighteen years, no such petition by the person sentenced or by any other person on his behalf shall be entertained, unless the person sentenced is in jail, and—

(a) where such petition is made by the person sentenced, it is presented through the officer-in-charge of the jail; or

(b) where such petition is made by any other person, it contains a declaration that the person sentenced is in jail.

STATEMENT OF OBJECTS AND REASONS

At present the Code of Criminal Procedure, 1898 (Central Act No. 5 of 1898), which consolidates and amends the law relating to the Criminal Procedure, is in force, with different amendments and provisions of law in the two different areas of Himachal Pradesh viz., the areas transferred to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966 and the areas comprised in Himachal Pradesh immediately before 1-11-1966. In the former, the amendments as affected in the said Act by the Punjab Act 28 of 1949, are in force, while in the latter no such amendments are in force. With a view to bringing about uniformity in the matter of such law, it has been considered necessary to repeal the amending Act aforesaid, and to enact a unified amending law for the whole of Himachal Pradesh. This Bill seeks to achieve the aforesaid object.

SIMLA:
The 12th September, 1969

KARAM SINGH,
Finance Minister.

FINANCIAL MEMORANDUM

Nil

MEMORANDUM ON DELEGATED LEGISLATION

Nil

Bill No. 23 of 1969.

THE HIMACHAL PRADESH REPEALING BILL, 1969

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A

BILL

to repeal certain enactments.

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Twentieth Year of the Republic of India as follows:—

1. This Act may be called the Himachal Pradesh Repealing Act, 1969.
2. The enactments specified in the Schedule are hereby repealed.
3. The repeal by this Act of any enactment shall not,—
 - (a) affect any other enactment in which the repealed enactment has been applied, incorporated or referred to; or
 - (b) revive or restore any jurisdiction, office, custom, liability, right, title, privilege, restriction, exemption, usage, practice, procedure or other matter or thing not now existing or in force; or
 - (c) affect the previous operation of any enactment so repealed or anything duly done or suffered thereunder; or
 - (d) affect any right, title, privilege, obligation or liability acquired, accrued or incurred under any enactment so repealed; or
 - (e) affect any remedy or proceeding in respect thereof, or any release or discharge of, or from, any debt, penalty, obligation, liability, claim or demand, or any indemnity already granted, or the proof of any past act or thing under any enactment so repealed; or
 - (f) affect any principle or rule of law, or established jurisdiction, form or course of pleading, practice or procedure, or existing usage, custom, privilege, restriction, exemption, office or appointment, notwithstanding that the same, respectively, may have been in any manner affirmed, or recognised or derived by, in or from any enactment hereby repealed; or
 - (g) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against any enactment so repealed; or
 - (h) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment, as aforesaid;

Short title.

Repeal of
certain
enactments.
Savings.

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed as if this act had not been passed.

THE SCHEDULE

(See section 2)

Year 1	Number 2	Short title 3	Extent 4
1883	20	The Punjab District Boards Act, 1883.	The whole
1927	3	The Punjab District Boards (Tax-Validating) Act, 1927 as in force in the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966.	The whole
1947	9	The East Punjab Local Authorities (Restriction of Functions) Act, 1947 as in force in the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966.	The whole
1948	29	The East Punjab Special Tribunal (Continuance) Act, 1948 as in force in the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966.	The whole
1950	10	The Punjab Special Tribunal (Change of Composition) Act, 1950 as in force in the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966.	The whole
1951	7	The Punjab Forward Contracts Tax Act, 1951 as in force in the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966.	The whole
1954	7	The Himachal Pradesh Compulsory Primary Education Act, 1953.	The whole
1955	27	The Punjab District Boards (Tax-Validating) Act, 1955 as in force in the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966.	The whole
1958	8	The Punjab Textiles and Sugar (Existing Stocks) Purchase Tax and Miscellaneous Provisions Act, 1958 as in force in the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966.	The whole

1	2	3	4
1959	22	The Punjab Local Authorities (Aided Schools) Act, 1959 as in force in the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966.	The whole
1960	39	The Punjab Primary Education Act, 1960 as in force in the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966.	The whole
1965	17	The Punjab Labour Welfare Fund Act, 1965 as in force in the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966.	The whole

STATEMENT OF OBJECTS AND REASONS

There are certain Acts (as specified in the Schedule to this Bill) which are no longer required either because these have no utility in Himachal Pradesh or have become obsolete. Acts No. 20 of 1883 and 3 of 1927 and 27 of 1955 are not needed for the reason that there are no District Boards in the old areas of Himachal Pradesh and further a provision has also been made for abolition of District Boards in the Punjab under section 118 of the Punjab Panchayat Samiti and Zila Parishads Act, 1961. Acts No. 29 of 1948 and 10 of 1950 are infructuous for the reason that there is no need now to continue this Tribunal under the Criminal Law Amendment Ordinance, 1943. Acts No. 7 of 1954 and 39 of 1960 are not needed because it is not possible to enforce the provisions of both these Acts in any area or whole of Himachal Pradesh firstly for want of pre-requisite facilities for the introduction of compulsion in the matter of Primary Education and secondly because persuasion is considered better than compulsion. For the aforesaid reasons the Himachal Pradesh Compulsory Primary Education Act, 1953 could not be enforced in any area of old Himachal Pradesh. Act No. 9 of 1947 is not needed for the reason that there is at present no influx of Refugees i.e. (Displaced Persons) from Pakistan. Act No. 17 of 1965 is not needed for the reason that there is no necessity for the constitution of a Fund for the financing of activities to promote welfare of labour in Himachal Pradesh due to the fact, that there are no such factories in this Pradesh, for which this Act was enacted in the Punjab. Act No. 7 of 1951 is infructuous for the reason that it was declared void and unconstitutional by the Supreme Court and was not, therefore, implemented in the Punjab. Act No. 8 of 1958 is also infructuous since it has died its natural death after the assessment of stock in hand as on 13-12-1957 had been made in the Punjab. Act No. 22 of 1959 is not needed for the reason that the Local Bodies Schools have now been provincialised in these areas of Himachal Pradesh.

SIMLA:

The 12th September, 1969.

KARAM SINGH,

Finance Minister.

FINANCIAL MEMORANDUM

Nil

MEMORANDUM ON DELEGATED LEGISLATION

Nil

Bill No. 24 of 1969.

**THE HIMACHAL PRADESH REQUISITIONING AND
ACQUISITION OF IMMOVABLE PROPERTY
BILL, 1969**

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A

BILL

to provide for the requisitioning and acquisition of immovable property for the purposes of the Union.

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Twentieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Himachal Pradesh Requisitioning and Acquisition of Immovable Property Act, 1969.
(2) It extends to the whole of Himachal Pradesh.
(3) It shall remain in force for a period of five years from the date of the commencement of this Act.

Short title,
extent and
duration.

2. In this Act, unless the context otherwise requires,—

Definitions.

- (a) "award" means any award of an arbitrator made under section 10;
(b) "competent authority" means any person or authority authorised by the Government, by notification in the Official Gazette, to perform the functions of the competent authority under this Act for such area as may be specified in the notification;
(c) "Government" means the Administrator of the Union territory of Himachal Pradesh;
(d) "landlord" means any person who for the time being is receiving, or is entitled to receive, the rent of any premises, whether on his own account, or on account or on behalf or for the benefit, of any other person or as a trustee guardian or receiver for any other person, or who would so receive the rent or be entitled to receive the rent if the premises were let to a tenant;
(e) "Official Gazette" means the Rajpatra, Himachal Pradesh;
(f) the expression "person interested", in relation to any property, includes all persons claiming or entitled to claim, an interest in the compensation payable on account of the requisitioning or acquisition of that property under this Act;
(g) "premises" means any building or part of a building and includes:—
(i) the garden, grounds and out houses, if any, appertaining to such building or part of a building;

- (ii) any fittings affixed to such building or part of a building for the more beneficial enjoyment thereof;
- (h) "prescribed" means prescribed by rules made under this Act;
- (i) "property" means immovable property of every kind and includes any rights in or over such property;
- (j) "tenant" means any person by whom or on whose account rent is payable for any premises and includes such sub-tenants and other persons as have derived title under the tenant under any law for the time being in force.

Power to re-
quisition
immovable
property.

3. (1) Where the competent authority is of opinion that any property is needed or likely to be needed for any public purpose, being a purpose of the Union, and that the property should be requisitioned, the competent authority,—

- (a) shall call upon the owner or any other person who may be in possession of the property by notice in writing (specifying therein the purpose of the requisition) to show cause, within fifteen days of the date of the service of such notice on him, why the property should not be requisitioned; and
- (b) may, by order, direct that neither the owner of the property nor any other person shall, without permission of the competent authority dispose of, or structurally alter, the property or let it out to a tenant until the expiry of such period, not exceeding two months, as may be specified in the order.

(2) If, after considering the cause, if any, shown by any person interested in the property, or in possession thereof, the competent authority is satisfied that it is necessary or expedient so to do, it may, by order in writing, requisition the property and may make such further orders as appear to it to be necessary or expedient in connection with the requisitioning:

Provided that no property or part thereof—

- (a) which is *bonafide* used by the owner thereof as the residence of himself or his family, or
- (b) which is exclusively used either for religious worship by the public or as a school, hospital, public library or an orphanage or for the purpose of accommodation of persons connected with the management of such place of worship or such school, hospital, library or orphanage, shall be requisitioned:

Provided further that where the requisitioned property consists of premises which are being used as a residence by a tenant for not less than two months immediately preceding the date of the service of notice under sub-section (1), possession of the property shall not be taken unless the competent authority has provided such tenant with alternative accommodation which, in its opinion is suitable.

Power to
take possession
of re-
quisitioned
property.

4. (1) Where any property has been requisitioned under section 3, the competent authority may, by notice in writing, order the owner as well as any other person who may be in possession of the property to

surrender or deliver possession thereof to the competent authority or any person duly authorised by it in this behalf within thirty days of the service of the notice.

(2) If any person refuses or fails to comply with an order made under sub-section (1), the competent authority may take possession of the property and may, for that purpose, use such force as may be necessary.

5. (1) All property requisitioned under section 3, shall be used for such purposes, as may be mentioned in the notice of requisition.

Right over requisitioned property.

(2) Where any premises are requisitioned under section 3, the competent authority may order the landlord to execute such repairs as may be necessary and are usually made by landlords in that locality and as may be specified in the notice, within such reasonable time as may be mentioned therein and if the landlord fails to execute any repairs in pursuance of such order, the competent authority may cause the repairs specified in the order to be executed at the expense of the landlord and the cost thereof may, without prejudice to any other mode of recovery be deducted from the compensation payable to the landlord.

6. (1) The competent authority may at any time release from requisition any property requisitioned under this Act and shall, as far as possible, restore the property in as good a condition as it was when possession thereof was taken subject only to the changes caused by reasonable wear and tear and irresistible force:

Release from requisitioning.

Provided that where the purposes for which any requisitioned property was being used cease to exist, the competent authority shall, unless property is acquired under section 9, release that property, as soon as may be from requisition.

(2) Where any property is to be released from requisition, the competent authority may, after such inquiry, if any, as it may in any case consider necessary to make or cause to be made, specify by order in writing the person to whom possession of the property shall be given and such possession shall, as far as practicable, be given to the person from whom possession was taken at the time of the requisition or to the successors-in-interest of such person.

(3) The delivery of possession of the property to the person specified in an order under sub-section (2) shall be full discharge of the Government from all liability in respect of the property, but shall not prejudice any rights in respect of the property which any other person may be entitled by due process of law to enforce against the person to whom possession of the property is given.

(4) Where any person to whom possession of any requisitioned property is to be given is not found and has no agent or other person empowered to accept delivery on his behalf, the competent authority shall cause a notice declaring that the property is released from requisition to be affixed on some conspicuous part of the property and shall also publish the notice in the Official Gazette.

(5) When a notice referred to in sub-section (4) is published in the Official Gazette, the property specified in such notice shall cease to be subject to requisition on and from the date of such publication and shall be deemed to have been delivered to the person entitled to possession thereof and the Government shall not be liable for any compensation or other claim in respect of the property for any period after the said date.

(6) Where any property requisitioned under this Act or any material part thereof is wholly destroyed or rendered substantially and permanently unfit for the purpose for which it was requisitioned by reason of fire, earthquake, tempest, flood or violence of an army or of a mob or other irresistible force, the requisition shall, at the option of the Government, be void:

Provided that the benefit of this sub-section shall not be available to the Government where the injury to such property is caused by any wrongful act or default of that Government.

Application
for release
from requi-
sitioning.

7. (1) After a period of two years from the date of requisitioning of any property, the owner or any person interested in such property, may apply to the competent authority to release it from requisition:

Provided that such application may be made before the expiry of two years from the date of requisitioning of the property, if there have arisen circumstances which the owner or any person interested in the property could not have urged when given an opportunity to show cause under clause (a) of sub-section (1) of section 3.

(2) On receipt of an application under sub-section (1) the competent authority may, after calling for such information as may be found necessary from the owner or any person interested in the property or making such further inquiry as it may consider necessary, pass such orders as it deems fit.

Further ap-
plication
for release
from requisi-
tioning.

8. After the application for release from requisition made under section 7 has been rejected by the competent authority and the appeal filed before the Government under section 13 has also been rejected, no further application for the release from requisition of property in question will be entertained by the competent authority till the expiry of a further period of two years:

Provided that another application may be made by the owner or any person interested in the property within two years of rejection of the first appeal if any further circumstances have arisen which he could not have urged in his previous application.

Power to
acquire re-
quisitioned
property.

9. (1) Where any property is subject to requisition the Government may, if it is of opinion that it is necessary to acquire the property for a public purpose, at any time acquire such property by publishing in the Official Gazette a notice to the effect that the Government has decided to acquire the property in pursuance of this section:

Provided that before issuing such notice the Government shall call upon the owner of, or any other person who, in the opinion of the Government

may be interested in, such property to show cause why the property should not be acquired; and after considering the cause, if any, shown by any person interested in the property and after giving the parties an opportunity of being heard, the Government may pass such orders as it deems fit.

(2) When a notice as aforesaid is published in the Official Gazette, the requisitioned property shall, on and from the beginning of the day on which the notice is so published, vest absolutely in the Government free from all encumbrances and the period of requisition of such property shall end.

(3) No property shall be acquired under this section except in the following circumstances, namely:—

(a) where any works have, during the period of requisition, been constructed on, in or over, the property wholly or partially at the expense of the Government and the Government decides that the value of, or the right to use, such works should be secured or preserved for the purposes of Union; or

(b) where the cost of restoring the property to its condition at the time of its requisition would, in the determination of the Government, be excessive and the owner declines to accept release from requisition of the property without payment of compensation for so restoring the property.

(4) Any decision or determination of the Government under sub-section (3) shall be final and shall not be called in question in any court.

(5) For the purposes of clause (a) of sub-section (3) "works" includes buildings, structures and improvements of every description.

10. (1) Where any property is requisitioned or acquired under this Act, there shall be paid compensation the amount of which shall be determined in the manner and in accordance with the principles hereinafter set out, that is to say:—

Principles
and methods
of determin-
ing com-
pensation.

(a) where the amount of compensation can be fixed by agreement, it shall be paid in accordance with such agreement;

(b) where no such agreement can be reached, the Government shall appoint as arbitrator a person, who is, or has been, or is qualified for appointment as a Judge of a High Court;

(c) the Government may, in any particular case, nominate a person having expert knowledge as to the nature of the property requisitioned or acquired to assist the arbitrator and where such nomination is made, the person to be compensated may also nominate an assessor for the same purpose;

(d) at the commencement of the proceedings before the arbitrator, the Government and the person to be compensated shall state what in their respective opinion is a fair amount of compensation;

(e) the arbitrator shall, after hearing the dispute, make an award determining the amount of compensation which appears to

him to be just and specify the person or persons to whom such compensation shall be paid; and in making the award, he shall have regard to the circumstances of each case and the provisions of sub-sections (2) and (3), so far as they are applicable;

(f) where there is any dispute as to the person or persons who are entitled to the compensation, the arbitrator shall decide such dispute and if the arbitrator finds that more persons than one are entitled to compensation, he shall apportion the amount thereof amongst such persons;

(g) nothing in the Arbitration Act, 1940, shall apply to arbitrations under this section.

10 of 1940.

(2) The compensation for the requisitioning of any property shall consist of:—

(a) a recurring payment, in respect of the period of requisition of a sum equal to the rent which would have been payable for the use and occupation of the property, if it had been taken on lease for that period; and

(b) such sum, or sums, if any, as may be found necessary to compensate the person interested for all or any of the following matters, namely:—

- (i) pecuniary loss due to requisitioning;
- (ii) expenses on account of vacating the requisitioned premises;
- (iii) expenses on account of re-occupying the premises upon release from requisition; and
- (iv) damages (other than normal wear and tear) caused to the property during the period of requisition, including the expenses that may have to be incurred for restoring the property to the condition in which it was at the time of requisition.

(3) The compensation payable for the acquisition of any property under section 9 in the absence of an agreement, shall be determined in accordance with the principles laid down under sections 23 and 24 of the Land Acquisition Act, 1894.

1 of 1894.

(4) Where there are several persons interested in the compensation, it shall be lawful for the Government, either on its own motion, or on an application from any person interested to appoint the same or any other arbitrator to make an award or supplementary award in respect of the dispute.

Payment of
compensa-
tion.

11. The amount of compensation payable under an award shall, subject to any rules made under this Act, be paid or given by the competent authority to the person or persons entitled thereto in such manner and within such time as may be specified in the award.

12. (1) Any person aggrieved by an order of requisition made by the competent authority under sub-section (2) of section 3 may, within twenty-one days from the date of service of the order, prefer an appeal to the Government:

Appeals from orders of requisitioning.

Provided that the Government may entertain the appeal after the expiry of the said period of twenty-one days, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) On receipt of an appeal under sub-section (1), the Government may, after calling for a report from the competent authority and giving an opportunity to the parties of being heard and after making such further inquiry, if any, as may be necessary, pass such orders as it thinks fit and the order of the Government shall be final.

(3) Where an appeal is preferred under sub-section (1), the Government may stay the enforcement of the order of the competent authority for such period and on such conditions as it thinks fit.

13. (1) Any person aggrieved by an order made by the competent authority under sections 7 and 8 may, within twenty-one days from the date of service of the order, prefer an appeal to the Government:

Appeal from order of competent authority rejecting application for release from requisitioning.

Provided that the Government may entertain the appeal after the expiry of the said period of twenty-one days, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) On receipt of an appeal under sub-section (1) the Government may, after calling for a report from the competent authority and after making such further inquiry as it may consider necessary, pass such orders as it deems fit and the orders of the Government shall be final.

14. Any person aggrieved by an award of the arbitrator made under section 10 may, within thirty days from the date of such award, prefer an appeal to the High Court within whose jurisdiction the requisitioned or acquired property is situate:

Appeals from awards in respect of compensation.

Provided that the High Court may entertain the appeal after the expiry of the said period of thirty days, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

15. The competent authority and the arbitrator appointed under section 10 while holding an inquiry or as the case may be, arbitration proceedings under this Act, shall have all powers of a civil court, while trying a suit, under the Code of Civil Procedure, 1908 in respect of the following matters, namely:—

Competent authority and arbitrator to have certain powers of civil courts.

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of any document;

(c) reception of evidence on affidavits;

(d) requisitioning any public record from any court or office; and

(e) issuing commissions for examination of witnesses.

Power to
obtain in-
formation.

16. The Government or the competent authority may, with a view to carrying out the purposes of section 3 or section 6, or section 9, or section 10, by order require any person to furnish to such officer, as may be specified in the order, such information in his possession as may be specified relating to any property which is requisitioned or acquired, or intended to be requisitioned or acquired, under this Act.

Power to
enter and
inspect.

17. The competent authority or any officer, empowered in this behalf by such authority by general or special order, may enter and inspect any property for the purposes of determining whether, and if so, in what manner an order under this Act should be made in relation to such property or with a view to securing compliance with an order made under this Act.

Service of
notice and
orders.

18. (1) Subject to the provisions of this section and any rules that may be made under this Act, every notice or order issued or made under this Act, shall,—

- (a) in the case of any notice or order of a general nature or affecting a class of persons be published in the Official Gazette;
- (b) in the case of any notice or order affecting an individual corporation or firm, be served in the manner provided for the service of summons in Rule 2 of Order XXIX or Rule 3 of Order XXX as the case may be, in the First Schedule of the Code of Civil Procedure, 1908; and
- (c) in the case of any notice or order affecting an individual person (not being a corporation or firm) be served on such person—
 - (i) by delivering or tendering it to that person; or
 - (ii) if it cannot be so delivered or tendered, by delivering or tendering it to any officer of such person or any adult male member of the family of such person, or by affixing a copy thereof on the outer door or on some conspicuous part on the premises in which that person is known to have last resided or carried on business or personally worked for gain; or failing service by these means;

(iii) by post.

(2) Where the ownership of the property is in dispute or where the persons interested in the property are not readily traceable and the notice or order cannot be served without undue delay, the notice or order may be served by publishing it in the Official Gazette, and where possible, by affixing a copy thereof on any conspicuous part of the property to which it relates.

Easement
not to be
disturbed.

19. No person interested in any property requisitioned or acquired under this Act shall, without the previous written consent of the competent authority or except for the purposes of affecting repairs or complying with municipal requirement, wilfully disturb any convenience or easement attached to such property or remove, destroy or render unserviceable anything provided for permanent use therewith or discontinue or cause to be discontinued any supply or service provided for the property.

20. (1) The Government may, by notification in the Official Gazette, direct that the powers exercisable by it by or under this Act shall, in such circumstances and under such conditions, if any, as may be specified in the notification, be exercisable also by an officer subordinate to that Government.

Delegation of powers.

(2) All notifications issued under sub-section (1) shall be laid, as soon as may be, before the Legislative Assembly.

21. (1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any order made thereunder.

Protection of action taken in good faith.

(2) No suit or other legal proceeding shall lie against the Government or the competent authority for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Act or any order made thereunder.

22. Save as otherwise expressly provided in this Act no civil court shall have jurisdiction in respect of any matter which the competent authority or arbitrator is empowered by or under this Act to determine, and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

Bar of jurisdiction of civil court

23. Whoever contravenes any provision of this Act, or any rule made thereunder, or any order made or direction given under this Act, or obstructs the lawful exercise of any power conferred by or under this Act, shall be punishable with fine which may extend to one thousand rupees.

Penalty for offences.

24. The competent authority, every arbitrator and every officer empowered by the Government or the competent authority, while exercising any power or performing any duty under this Act, shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

Certain persons to be public servants.

25. (1) The Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) the procedure to be followed by the competent authority in making inquiries under section 3 or section 6;
- (b) the procedure to be followed in arbitration proceedings and appeals under this Act;
- (c) the principles to be followed in determining the amount of compensation, method of payment and rendition of such compensation;
- (d) the principles to be followed in apportioning the cost of proceedings before the arbitrator and on appeal under this Act;

- (e) the manner of service of notices and orders;
- (f) rent and its recovery; and
- (g) any other matter which has to be or may be, prescribed.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before the Legislative Assembly while it is in session, for a total period of not less than fourteen days which may be comprised in one session or in two or more successive sessions and if before the expiry of the session in which it is so laid or the sessions aforesaid, the Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Validation
of certain
requisitions
and acquisitions.

26. (1) All immovable property which purports to have been requisitioned by the Government for any public purpose, under any law in force prior to the commencement of this Act, and which, immediately before such commencement, was used or occupied by the Government or by an officer or authority subordinate to that Government shall, as from the commencement of this Act, be deemed to be property duly requisitioned under section 3 of this Act, and every such requisition shall, notwithstanding any judgment, decree or order of any court, be deemed always to have been valid as if this Act had been in force on and from the date of the requisition and the requisition had been duly made by a competent authority under this Act, and all the provisions of this Act shall apply accordingly:

Provided that all agreements and awards for the payment of compensation in respect of any such property for any period of requisition before the commencement of this Act and in force immediately before such commencement shall be valid and shall be deemed always to have been valid and shall continue to be in force and shall apply to the payment of compensation in respect of that property for any period of requisition after such commencement.

(2) Every acquisition of immovable property purporting to have been made before the commencement of this Act by the Government for any public purpose, under any enactment for the time being in force in the Pradesh and which, immediately before such commencement was used or occupied by the Government or by an officer or authority subordinate to that Government shall, notwithstanding any defect in, or invalidity of, the enactment or order under which the acquisition was made, be deemed for all purposes to have been validly made as if the provisions of the said enactment or order had been included and enacted in this section and this section had been in force on and from the date of acquisition.

27. (1) Subject to any rules that may be made in this behalf by the Government any sum due by way of rent in respect of any requisitioned property which is in arrear may be recovered by the competent authority from the person liable to pay the same in the same manner as an arrear of land revenue.

Power to recover rent or damages in respect of requisitioned property as arrears of land revenue.

(2) Where any person is in unauthorised occupation of any requisitioned property, the competent authority may, in the prescribed manner, assess such damages on account of the use and occupation of the said property as it thinks fit and may, by notice served by post or in such other manner, as may be prescribed by rules made in this behalf, order that person to pay the damages within such time, as may be specified in the notice.

(3) If any person refuses or fails to pay the damages within the time specified in the notice under sub-section (2), the damages may be recovered in the same manner as an arrear of land revenue.

28. (1) The Punjab Requisitioning of Immovable Property (Temporary Powers) Act, 1947, as in force in areas comprised in Himachal Pradesh immediately before the 1st November, 1966, and the Punjab Requisitioning and Acquisition of Immovable Property Act, 1953, as in force in the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966 are hereby repealed.

Repeal and savings.
17 of 1947

11 of 1953

31 of 1966

(2) For the removal of doubts, it is hereby declared that any property which immediately before such repeal was subject to requisition under the provisions of the said Acts shall, on the commencement of this Act, be deemed to be property requisitioned under section 3 of this Act, and all the provisions of this Act shall apply accordingly:

Provided that:—

- (a) all agreements and awards for the payment of compensation in respect of any such property for any period of requisition before the commencement of this Act and in force immediately before such commencement, shall continue to be in force and shall apply to the payment of compensation in respect of that property for any period of requisition after such commencement;
- (b) anything done or any action taken (including any orders, notifications or rules made or issued) in exercise of the powers conferred by or under the said Acts shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken in exercise of the powers conferred by or under this Act as if this Act was in force on the day on which such thing was done or action was taken.

STATEMENT OF OBJECTS AND REASONS

Occasions often arise when the requisitioning of immovable property becomes inescapable in public interest. There is no law for the purpose in the transferred territory at present with the lapse of the Punjab Requisitioning and Acquisition of Immovable Property Act, 1953 w.e.f. 14-4-1968. In the old areas, the Punjab Requisitioning of Immovable Property (Temporary Powers) Act, 1947, is in force. With a view to have a unified law for the whole of Himachal Pradesh, it is necessary to enact the aforesaid law afresh. The Bill seeks to achieve the aforesaid object.

SIMLA:

The 12th September, 1969

KARAM SINGH,

Finance Minister.

FINANCIAL MEMORANDUM

Nil

MEMORANDUM ON DELEGATED LEGISLATION

Clause 20 of the Bill provides for the delegation of powers. Clause 25 of the Bill empowers the State Government to make rules in respect of the matters mentioned therein.

The proposed delegation is normal in character.

Bill No. 25 of 1969.

THE HIMACHAL PRADESH BACKWARD CLASSES (GRANT OF LOANS) BILL, 1969

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A

BILL

to provide for the extension of loan facilities to persons belonging to Backward Classes in the Union territory of Himachal Pradesh.

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Twentieth Year of the Republic of India as follows:—

1. (i) This Act may be called the Himachal Pradesh Backward Classes (Grant of Loans) Act, 1969.

(ii) It extends to the whole of the Union territory of Himachal Pradesh.

(iii) It shall come into force at once.

Short title,
extent and
commence-
ment.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) “backward classes” means the Scheduled Castes and the Scheduled Tribes declared as such in relation to the Union territory of Himachal Pradesh under articles 341 and 342 respectively of the Constitution and includes all persons each of whose annual gross income calculated in the prescribed manner does not exceed two thousand rupees;

(b) “borrower” means an individual belonging to a Backward Class to whom a loan has been granted under this Act;

(c) “controlling authority” means the authority appointed by the Government by notification in the Official Gazette to be competent to sanction a loan under the powers conferred by this Act and to take such steps as are necessary for the enforcement of the provisions of this Act;

(d) “government” means the Lieutenant Governor of Himachal Pradesh;

(e) “loan” means interest free loan granted by the Government under this Act;

(f) “prescribed” means prescribed by rules made under this Act.

3. The amount of loan which may be granted to an individual under this Act shall not exceed two thousand rupees.

Limit of
loan.

4. (i) Any person belonging to a backward class may submit to the controlling authority an application in the prescribed form, supported by an affidavit, stating the amount of loan desired by him, the purpose or purposes for which it is desired and the manner in which the repayment of the loan, if granted to him, is proposed to be made.

Procedure
for sanc-
tioning
loans.

(2) The controlling authority if satisfied that the applicant is a person belonging to a backward class, may sanction the loan to the extent of the amount stated in the application or any lesser amount, subject to a maximum of two thousand rupees in each case.

5. (1) When a loan is sanctioned under sub-section (2) of section 4, the applicant shall execute a bond in the prescribed form,—

(a) undertaking to apply the amount of the loan to the purpose or

Security for
repayment
of loans.

purposes for which it has been sanctioned;

- (b) undertaking to fulfil the conditions on which the loan has been sanctioned; and
- (c) agreeing that the amount of the loan shall be recoverable in the prescribed manner if it is not used for such purpose or purposes or if there is any breach of such conditions.

(2) For the loan so sanctioned, the applicant shall furnish one surety and the person and property of the applicant as well as of the surety shall be liable for the repayment of the loan and costs, if any incurred in granting or recovering the loan:

Provided that the controlling authority may, in any case, for reasons to be recorded in writing, exempt any applicant from furnishing a surety.

Loan how repayable.

6. The loan shall be repayable by the borrower in twenty half yearly equated instalments:

Provided that the repayment of instalments shall not commence before the expiry of four years from the date of payment of the loan.

Inspection and supply of information.

7. A borrower shall be bound,—

(a) to comply with any general or special order of the controlling authority relating to the inspection of the premises, buildings, machinery and stock in hand purchased or hired by the borrower with the aid of the loan granted to him; and

(b) to furnish any information which the controlling authority may require in respect of the purpose or purposes for which the loan was granted or of the manner in which the loan has been or is being utilised.

Consequence of failure by borrower to comply with provisions of section 7.

8. If any borrower fails without reasonable cause to comply with any order or to furnish any information as required by section 7, or if the controlling authority after inspection provided for in section 7, or otherwise is satisfied that the money lent is not being applied to the purpose or purposes for which it was lent or that any condition on which it was granted is not being duly fulfilled, the controlling authority may declare, notwithstanding anything contained in the bond executed by the borrower, that the loan shall be immediately recoverable and shall give notice of such declaration to the borrower.

Appeal.

9. Within six weeks of the receipt of the notice under section 8 the borrower may appeal against the declaration of the controlling authority under that section to the Government and the decision of the Government thereon shall be final.

Mode of recovery.

10. (1) When the loan or any instalment thereof falls due and is not paid on or before the due date, or when the loan has been declared immediately recoverable under section 8 and subject to the order made on appeal under section 9 the controlling authority may cause to be served on the borrower a notice calling upon him to pay the sum due within such time and to such officer as may be specified therein.

(2) In case of default in complying with a notice under sub-section (1) the sums specified in the notice including costs, if any, incurred by the Government may be realised as arrears of land revenue.

Finality of decision of Government.

11. The decision of the Government as to whether the conditions laid down in or under any of the provisions of this Act have been satisfied shall be final, and no suit shall be brought in any civil court to set aside or modify any order made thereunder, nor shall the same be questioned by any

court of law in any proceedings whatsoever.

12. No prosecution, suit or other proceedings shall lie against the Government or any officer or authority vested with powers under this Act for anything in good faith done or intended to be done thereunder.

Legal proceedings.

13. (1) The Government may, by notification in the Official Gazette, make rules consistent with this Act for the carrying out of all or any of its purposes.

Power to make rules.

(2) In particular and without prejudice to the generality of the foregoing power, the Government may make rules regulating or determining all or any of the following matters, namely:—

- (a) the manner of calculating the annual gross income of a person for the purpose of grant of loans under this Act;
- (b) the forms of the applications to be made and deeds to be executed in respect of loans;
- (c) the mode in which payment of loans is to be made;
- (d) the forms of notices to be given or declarations to be made by the controlling authority; and
- (e) the purposes for which loans may be sanctioned under this Act.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before the Legislative Assembly while it is in session, for a total period of not less than fourteen days which may be comprised in one session or in two or more successive sessions, and if before the expiry of the session in which it is so laid or the sessions aforesaid, the Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

14. (1) The Punjab Backward Classes (Grant of Loans) Act 1957 in its application to the territories added to the Union territory of Himachal Pradesh by section 5 of the Punjab Re-organisation Act, 1966 is hereby repealed:

Repeal and Savings.

Provided that such repeal shall not affect:—

- (a) the previous operation of the said Act or anything duly done or suffered thereunder; or
- (b) any right, privilege, obligation or liability acquired, accrued or incurred under the said Act; or
- (c) any penalty forfeiture or punishment incurred in respect of any offence committed against the said Act; or
- (d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid;

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty forfeiture or punishment may be imposed as if the said Act had not been repealed.

(2) Any loan granted under the Act repealed by sub-section (1) shall be deemed to be a loan granted under this Act and the amount of such loan outstanding at the commencement of this Act shall be recovered under the provisions of this Act and the rules made thereunder.

17 of 1957

31 of 1966

STATEMENT OF OBJECTS AND REASONS

After completion of the academic or professional career, persons belonging to backward classes find it difficult to establish themselves in the professions of Law, Medicine, Engineering and Architecture on account of lack of finances. These people hail from economically backward classes and without timely and adequate financial aid from Government by way of loans for the purchase of books and other equipment, they cannot establish themselves in those professions. The Punjab Backward Classes (Grant of Loans) Act, 1957 is applicable in the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966. But there is no law under which such loans can be granted in the old areas of Himachal Pradesh. The Himachal Pradesh Backward Classes (Grant of Loans) Bill, 1969 is intended to enable the Government to grant such loans in the whole of the Union territory of Himachal Pradesh.

SIMLA:
The 12th September, 1969.

LAL CHAND PRARTHI,
Revenue and Welfare Minister.

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides that the amount of loan which may be granted to an individual shall not exceed two thousand rupees. Such interest free loans are proposed to be given to about 250 persons per year. Total yearly provision will not thus exceed Rs. 5 lakhs (Rupees five lakhs). As the loan proposed to be advanced to the individuals will be interest free so the interest liability will have to be borne by the Himachal Pradesh Government, the exact amount of interest will depend upon the rate of interest fixed by the Government of India for such loans for a particular year. There will be no additional expenditure on establishment as the existing machinery of the Welfare Department is intended to be utilised for operating the provisions of the Bill.

MEMORANDUM ON DELEGATED LEGISLATION

Clause 13 of the Bill empowers the Government of the Union territory of Himachal Pradesh to make rules for carrying out the purposes of this Bill. The proposed delegation is normal in character.

RECOMMENDATIONS OF THE ADMINISTRATOR UNDER SECTION 23 OF THE GOVERNMENT OF UNION TERRITORIES ACT, 1963

(Welfare Department File No. 12-17/60-Wel. Plan)

- The Administrator, Himachal Pradesh, having been informed of the subject matter of the Himachal Pradesh Backward Classes (Grant of Loans) Bill, 1969, recommends under section 23 of the Government of Union Territories Act, 1963, the introduction of the Bill in the Legislative Assembly.

Bill No. 26 of 1969.

**THE HIMACHAL PRADESH (EXTENSION OF LAWS)
BILL, 1969**

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A

BILL

to provide for the extension of certain laws as applicable to, or in force in, the areas as comprised in Himachal Pradesh immediately before the 1st November, 1966, to the areas as added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966.

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Twentieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Himachal Pradesh (Extension of Laws) Act, 1969.

Short title and commencement.

(2) It shall come into force at once.

2. In this Act, unless there is anything repugnant in the subject or context,—

Definitions.

(a) “official gazette” means Rajpatra, Himachal Pradesh;

(b) “old areas” means the areas as comprised in Himachal Pradesh immediately before 1st November, 1966;

(c) “schedule” means a schedule appended to this Act;

(d) “State Government” means the Administration of Himachal Pradesh; and

(e) “transferred territories” means the territories which were added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966.

3. All the enactments, as amended from time to time, specified in Schedule I, which are applicable to, or in force in the old areas and all rules, regulations, notifications, orders and bye-laws made, and all directions or instructions issued, thereunder, which are in force immediately before the commencement of this Act, are hereby extended to, and shall be in force in, the transferred territories.

Extension of certain laws to transferred territories.

4. In the enactments, or rules, regulations, notifications, orders and bye-laws made, and directions or instructions issued, thereunder, as referred to in section 3, any reference,—

Construction of certain references.

(i) to the law which is not in force in the transferred territories shall

in relation to such territories, be construed as a reference to the corresponding law, if any, in force in such territories; and

- (ii) to the Union territory of Himachal Pradesh, by whatever form of words, shall be construed as including a reference to the transferred territories.

Repeal and savings.

5. If, immediately before the commencement of this Act, there is in force in the transferred territories any law corresponding to any of the enactments or rules, regulations, notifications, orders and bye-laws made, and directions or instructions issued, thereunder, extended to those territories, by section 3, that law including the enactments specified in Schedule II, shall, on the commencement of this Act, save as otherwise expressly provided in this Act, stand repealed:

Provided that such repeal shall not affect,—

- (a) the previous operation of any law so repealed or anything duly done or suffered thereunder, or
- (b) any right, privilege, obligation or liability acquired, accrued or incurred under any law so repealed, or
- (c) any penalty, forfeiture or punishment incurred in respect of any offence committed against any law so repealed, or
- (d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment, as aforesaid,

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed, as if this Act had not been passed:

Provided further that anything done or any action taken under any law so repealed shall be deemed to have been done or taken under the corresponding provision of the enactment extended by section 3 to the transferred territories, and shall continue to be in force accordingly, unless and until superseded by anything done or any action taken under the enactment so extended.

Powers of courts and other authorities for purposes of facilitating the application of the enactments specified in Schedule I or rules, etc.

6. For the purposes of facilitating the application in the transferred territories of any enactment specified in Schedule I or of any rule, regulation, notification, order, bye-law, direction or instruction referred to in section 3, any court or other authority may construe the same with such alterations, not affecting the substance, as may be necessary or proper to adapt it to the matter before the court or other authority.

Power to make rules, etc. not to be affected.

7. Nothing contained in this Act shall affect the power of the State Government or of any officer or authority, exercisable under the enactments specified in Schedule I, to add to, amend, vary or rescind the rules,

regulations, notifications, orders and bye-laws made, and directions or instructions issued, as extended by section 3 to the transferred territories.

8. If any difficulty arises in giving effect, in the transferred territories, to the provisions of any enactment specified in Schedule I, the State Government may, by order notified in the official gazette, make such provisions or give such directions as appear to it to be necessary or expedient for the removal of the difficulty.

Power to
remove
difficulties.

SCHEDULE I

(See section 3)

Sl. No.	Year	Number of the Act	Name of the Act
1.	1955	6	The Himachal Pradesh Private Forests Act, 1954.
2.	1966	8	The Himachal Pradesh Khadi and Village Industries Board Act, 1966.

SCHEDULE II

(See section 5)

Sl. No.	Year	Number of the Act	Name of the Act
1.	1956	40	The Punjab Khadi and Village Industries Board Act, 1956.

STATEMENT OF OBJECTS AND REASONS

As a result of the transfer of hilly areas to Himachal Pradesh on the re-organisation of the erstwhile State of Punjab with effect from 1st November, 1966, there have been in force in Himachal Pradesh two different laws on certain subjects. With a view to bringing about uniformity, it has been considered proper to extend the laws on those subjects as in force in the old areas, to the areas transferred to Himachal Pradesh as a result of the said re-organisation and to repeal the corresponding laws as in force there.

The Himachal Pradesh Private Forests Act, 1954 (No. 6 of 1955) is in force in the old areas of Himachal Pradesh, but no such law is in force in the transferred areas. It has, therefore, been considered necessary to extend this Act to the transferred areas to achieve uniformity.

In the old areas of Himachal Pradesh, the Himachal Pradesh Khadi and Village Industries Board Act, 1966 (Act No. 8 of 1966) is in force whereas in the transferred areas, the Punjab Khadi and Village Industries Boards Act, 1956 (Act No. 40 of 1956) is in force. With a view to bringing about uniformity in the matter of such law, it has been considered necessary to extend the Himachal Pradesh Khadi and Village Industries Board Act, 1966, to the transferred areas and to repeal the Punjab Act No. 40 of 1956. It has also become necessary in view of Punjab Khadi and Village Industries Board (Re-organisation) Order, 1969.

This Bill seeks to achieve the aforesaid object.

SIMLA:

The 12th September, 1969.

KARAM SINGH,

Finance Minister.

FINANCIAL MEMORANDUM

Nil

MEMORANDUM REGARDING DELEGATED LEGISLATION

Nil

Bill No. 27 of 1969.

**THE HIMACHAL PRADESH (TRANSFERRED TERRITORY)
TENANTS (PROTECTION OF RIGHTS) (AMENDMENT) BILL,
1969**

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A
BILL

to amend the Himachal Pradesh (Transferred Territory) Tenants (Protection of Rights) Act, 1968.

BE it enacted by the Legislative Assembly of the Union territory of Himachal Pradesh in the Twentieth Year of the Republic of India as follows:—

Short title. 1. This Act may be called the Himachal Pradesh (Transferred Territory) Tenants (Protection of Rights) (Amendment) Act, 1969.

Extent. 2. It extends to the whole of transferred territory in the Union territory of Himachal Pradesh.

Extension of
stay period. 3. In sub-section (1)(b) of section 3 of The Himachal Pradesh (Transferred Territory) Tenants (Protection of Rights) Act, 1968, for the words “one year”, the words “two years” shall be substituted.

13 of 1968

Validation
of proceed-
ings under-
taken. 4. All orders made, proceedings taken and acts done by a court from eleventh September, 1969, to the commencement of this Act, in carrying out the purposes of sub-section (1)(b) of section 3 of the principal Act, shall be deemed to be and always to have been, validly made, taken or done.

STATEMENT OF PROVISIONS OF THE PRINCIPAL ACT
AFFECTED BY THIS AMENDING BILL

Section	Existing provision	Provision as it will stand after the enactment of the Bill
1	2	3
Sub-section (1) (b) of section 3.	<p>(1) Notwithstanding anything contained in any other law for the time being in force or in any contract:—</p> <p>(a) no suit, proceedings in execution of decrees or orders, or other proceedings for eviction of a tenant from his tenancy or any part thereof shall lie in any court; and</p> <p>(b) all suits, proceedings in execution of decrees or orders and other proceedings for such eviction pending in a court at the commencement of this Act, shall, for a period of <i>one year</i>, from such commencement be stayed.</p>	<p>(1) Notwithstanding anything contained in any other law for the time being in force or in any contract:—</p> <p>(a) no suit, proceedings in execution of decrees or orders, or other proceedings for eviction of a tenant from his tenancy or any part thereof shall lie in any court; and</p> <p>(b) all suits, proceedings in execution of decrees or orders and other proceedings for such eviction pending in a court at the commencement of this Act, shall, for a period of <i>two years</i>, from such commencement, be stayed.</p>

STATEMENT OF OBJECTS AND REASONS

With a view to restricting the eviction of tenants in the transferred territory, the Himachal Pradesh Government enacted the Himachal Pradesh (Transferred Territory) Tenants (Protection of Rights) Act, 1968. Besides the restriction imposed on the institution of new suits and proceedings, all the suits and proceedings pending in courts were stayed for a period of one year. The period of one year is to expire on 10-9-1969 as the Act came into force with effect from 11-9-1968.

The provision for the stay period of one year was made in the hope that the comprehensive land reforms measure would come into operation by the time this period expires. But as the said measure has not come into force as yet and is not likely to come into force by 10-9-1969 i.e., the date on which the stay period expires, it is proposed to extend it by one year more so that the interests of tenants are fully safeguarded.

LAL CHAND PRARTHI,
Revenue Minister.

SIMLA:
The 12th September, 1969.

FINANCIAL MEMORANDUM

Nil

MEMORANDUM ON DELEGATED LEGISLATION

Nil

Bill No. 28 of 1969.

THE HIMACHAL PRADESH COPYING FEES BILL, 1969

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A

BILL

to facilitate the recovery of fees payable for copies made or supplied of records kept in offices under the control of Revenue, Judicial and other officers of Government in Himachal Pradesh.

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Twentieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Himachal Pradesh Copying Fees Act, 1969.

Short title,
extent and
commence-
ment.

(2) It extends to the whole of Himachal Pradesh.

(3) It shall come into force at once.

2. In this Act "record" includes any portion of a record and any document, plan, map or other paper attached thereto or forming part of the record of any suit or appeal, enquiry or trial or other proceeding in any court or office.

Definition.

3. When any copy of any record has been made at the request of any applicant or his agent and such applicant or his agent has refused to accept delivery of the same or when any copy has been supplied to any such applicant or his agent, and the fee or any portion of the fee leviable for the supply of such copy remains unpaid, the said fee or portion thereof may be recovered from the applicant as if it were an arrear of land revenue:

Mode of
recovery of
fees.

Provided that a pleader presenting such an application on behalf of a client will not be held personally responsible where the application bears the signature or thumb-impression of such client.

4. The Punjab Copying Fees Act, 1936 as applied to Himachal Pradesh by the Himachal Pradesh (Application of Laws) Order, 1948 and as applied to Bilaspur by the Bilaspur (Application of Laws) Order, 1949 and the Punjab Copying Fees Act, 1936 in its application to the territories added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966 are hereby repealed:

Repeal and
savings.

Provided that anything done or any action taken in exercise of the powers conferred by or under the provisions of the Act so repealed shall to the extent of its being consistent with the provisions of this Act be deemed to have been done or taken in exercise of the powers conferred by or under this Act, as if this Act was in force on the day on which such thing was done or action taken.

5 of 1936

31 of 1966

STATEMENT OF OBJECTS AND REASONS

At present in the areas comprised in Himachal Pradesh immediately before 1st November, 1966, the Punjab Copying Fees Act, 1936, is in force with certain modifications. This Act is also in force in the territories added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966. In order to have uniformity in respect of mode of recovery of copying fees, it is essential to have a uniform law for the whole of Himachal Pradesh and this Bill seeks to achieve this object.

SIMLA:
The 12th September, 1969.

LAL CHAND PRARTHII,
Revenue Minister.

FINANCIAL MEMORANDUM

This Bill will neither increase nor decrease the State revenue accrued on account of levy of copying fees.

MEMORANDUM ON DELEGATED LEGISLATION

Nil